

MEMORANDUM OF AGREEMENT BETWEEN

THE INDIANA DEPARTMENT OF NATURAL RESOURCES AND THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Purpose and Intent

1. This Memorandum of Agreement (MOA) establishes policies, responsibilities, and procedures pursuant to statutes and rules with respect to a regulatory program regarding notification for and cleanup of spills related to petroleum exploration and production activities.
2. This agreement is entered into by the Indiana Department of Natural Resources and signed by the Director of the Department of Natural Resources (Director) with the Indiana Department of Environmental Management and signed by the Commissioner of the Department of Environmental Management (Commissioner).
3. This agreement shall become effective when approved by the Director and Commissioner.

Agency Authorities

4. The Indiana Department of Natural Resources, Division of Oil and Gas (Division) has authority over spills of crude oil, crude oil tank bottoms and saltwater related to petroleum exploration and production activities. The Indiana Department of Environmental Management (IDEM) Office of Environmental Response is responsible for and has authority over spills of any substance into the environment.
5. Nothing in this agreement is intended to affect any programs related to the environment that are not directly under the authority of the Division.

Agency Responsibilities

6. The Division shall respond to all spills of oil and saltwater from the operation and maintenance of tanks, pipes, pumps, valves, and wells related to oil and gas exploration and production and shall have responsibility for spills that meet the following criteria:
 - Spills contained within the boundaries of an approved secondary containment structure regardless of volume; or
 - Spills not contained within the secondary containment structure if the spill volume is less than 1000 gallons and does not threaten to enter ditches, creeks, ponds or other waters of the state.
 - Spills of oil when less than 55 gallons leave the facility boundary.
7. The IDEM shall be responsible for spills of oil and saltwater from the operation and maintenance of tanks, pipes, pumps, valves, and wells related to oil and gas exploration and production that meet the following criteria:

- Spills not contained within the secondary containment structure if the spill volume is greater than 1000 gallons; or
 - Spills that enter or threaten to enter ditches, creeks, ponds, or other waters of the state regardless of volume.
 - Spills of oil when greater than 55 gallons leave the facility boundary.
 - Spills when threats to public health are actual or imminent.
 - Spills that are not contained and free material not removed within the time specified in the working agreement.
1. The Indiana Department of Environmental Management is also responsible for any spills not specifically covered by the program to be implemented under the terms of this MOA.
 2. The Division shall implement a program related to spills of crude oil, crude oil tank bottoms, and saltwater resulting from petroleum exploration and production that requires an owner or operator to contain, remediate, reuse, remove and treat, or dispose of spills and spill contaminated materials in accordance with promulgated rules, policies, and best management practices.
 3. The Division shall promulgate rules that are based on a review of similar regulatory programs in other oil and gas producing states. These rules shall include provisions concerning spill containment, cleanup standards, bioremediation, excavation and disposal, and site remediation.
 4. The agency deemed to have responsibility for a spill shall be the lead agency. The lead agency shall provide the on scene coordinator and shall be responsible for the notification and coordination of all local agencies involved in the spill.

Communication

5. The parties agree to maintain a level of cooperation and coordination to assure the successful and effective administration of a spill notification and cleanup program. This shall include appropriate and timely contact between the Division and the IDEM. To facilitate this line of communication the Division and the IDEM shall develop a system for reporting, evaluating, and responding to spills.
6. The IDEM is responsible for keeping the IDNR apprised of the meaning and content of statutes, rules, technical standards, policy decisions, directives, and other factors which may affect this agreement or the program. The IDNR shall promptly inform IDEM of any resource allocation changes such as budget or equipment, and any judicial decisions or administrative actions which the IDNR believes might affect the Division's ability to administer the program.
7. The strategies and priorities for implementation of the program shall be established by this agreement. If requested by either party, meetings will be scheduled at reasonable intervals between the Division and the IDEM to review specific operating procedures, resolve problems, or discuss mutual concerns involving the administration of the program.

1. Disputes arising out of the implementation of this agreement shall be resolved through negotiation between the Division and the IDEM. The process of dispute resolution shall be initiated via referral from the Division Inspector and ERs Responder to the next higher level of authority within their respective agencies. The Director of the Division of Oil and Gas and the Emergency Response Branch Chief of the IDEM shall be the final authorities for dispute resolution.

Conformance with Laws and Rules

2. The Division and IDEM shall administer a spill notification and remediation program consistent with the intent of IC 14, IC 13, promulgated rules, this MOA, and any separate working agreements which may be entered into between the Director or his/her designee (IDNR) and the Commissioner and his/her designee (IDEM) as necessary for the full administration of the program. This program shall also specifically conform to the intent of 327 IAC 2-6.1.

Duration of MOA

3. This agreement will remain in effect until such time as either of the parties determines that the program implemented under this agreement is no longer functioning in the manner intended, is not operating in the best interests of the citizens of Indiana, is not protective of the environment, or is no longer authorized or funded.

Enforcement

4. When this agreement has been fully implemented the IDEM will consult with the Division before taking enforcement actions related to spills that are deemed the responsibility of the Division under this agreement. Every effort shall be made to obtain consensus between the agencies with respect to enforcement actions. This paragraph is intended to provide for timely, coordinated, and non-duplicative enforcement.

Review and Modifications

5. This agreement and any working agreements shall be reviewed annually by the Indiana Department of Environmental Management and the Division to determine its adequacy and legality. This agreement may be modified upon the initiative of either agency. Modifications must be in writing and must be signed by the Director and Commissioner. Modifications become effective when signed by both the Director and Commissioner. Modifications may be made by revision prior to the effective date of this agreement or subsequently by addenda attached to this agreement and consecutively numbered, signed and dated.

Signatures

Indiana Department of
Natural Resources

By [Signature]
Director
Date: 6-6-97

Indiana Department of
Environmental Management

By [Signature]
Commissioner
Date: 6-13-97